

NOTICE TO THE PUBLIC is hereby given that the following popular name and ballot proposed initiated measure has been certified by the Arkansas Attorney General. Pursuant to Arkansas Constitution, Amendment 7, any party may contest the popular name and ballot title as an original action with the Arkansas Supreme Court after the Secretary of State has verified the petition as having the sufficient number of qualified electors' signatures to have the measure placed on the ballot at the next general election.

Notice of Certification of Sufficiency

Pursuant to A.C.A §7-9-107

On May 9, 2008, this office received Opinion No. 2008-084 from the Attorney General for the State of Arkansas whereby he approved and certified a Popular Name and Ballot Title. Pursuant to A.C.A. §7-9-107 the Secretary of State shall also approve and certify the proposed Popular Name and Ballot Title as certified by the Attorney General.

Therefore, I, Charlie Daniels, Secretary of State, State of Arkansas, do hereby approve and certify the sufficiency of the following:

Popular Name

AN ACT TO PREVENT PERSONS UNLAWFULLY PRESENT IN THE UNITED STATES FROM RECEIVING CERTAIN PUBLIC BENEFITS.

Ballot Title

AN ACT TO PREVENT PERSONS UNLAWFULLY PRESENT IN THE UNITED STATES FROM RECEIVING CERTAIN PUBLIC BENEFITS; PROVIDING THAT, EXCEPT AS PROVIDED IN THE ACT OR WHEN EXEMPTED BY FEDERAL LAW, EVERY STATE AGENCY OR POLITICAL SUBDIVISION SHALL VERIFY THE LAWFUL PRESENCE IN THE UNITED STATES OF ANY PERSON FOURTEEN (14) YEARS OF AGE OR OLDER WHO HAS APPLIED FOR A STATE OR LOCAL PUBLIC BENEFIT OR FOR A FEDERAL PUBLIC BENEFIT THAT IS ADMINISTERED BY A STATE AGENCY OR A POLITICAL SUBDIVISION; DEFINING THE TERM "FEDERAL PUBLIC BENEFIT" TO MEAN THE SAME AS DEFINED IN 8 U.S.C. § 1611(c) AS IT EXISTED ON JANUARY 1, 2008; DEFINING THE TERM "POLITICAL SUBDIVISION" TO MEAN ANY COUNTY, MUNICIPALITY, TOWNSHIP, OR OTHER SPECIFIC LOCAL UNIT OF GOVERNMENT; DEFINING THE TERM "QUALIFIED ALIEN" TO MEAN AN ALIEN WHO, AT THE TIME THE ALIEN APPLIES FOR, RECEIVES, OR ATTEMPTS TO RECEIVE A STATE OR LOCAL PUBLIC BENEFIT OR A FEDERAL PUBLIC BENEFIT ADMINISTERED BY A STATE AGENCY OR POLITICAL SUBDIVISION, MEETS ONE (1) OR MORE OF THE CRITERIA ESTABLISHED IN 8 U.S.C. § 1641(B) AS IT EXISTED ON JANUARY 1, 2008; DEFINING THE TERM "STATE AGENCY" TO MEAN ANY OFFICE, DEPARTMENT, BOARD, COMMISSION, BUREAU, DIVISION, PUBLIC CORPORATION, AGENCY, OR INSTRUMENTALITY OF THIS STATE, INCLUDING WITHOUT LIMITATION A PUBLIC INSTITUTION OF HIGHER EDUCATION; DEFINING "STATE OR LOCAL PUBLIC BENEFIT" TO MEAN THE SAME AS DEFINED IN 8 U.S.C. § 1621(c) AS IT EXISTED ON JANUARY 1, 2008, AND PROVIDING THAT A STATE OR LOCAL PUBLIC BENEFIT SHALL INCLUDE THE INITIAL APPLICATION FOR ANY BUSINESS LICENSE GRANTED UNDER ARKANSAS LAW, EXCLUDING PROFESSIONAL LICENSES, BUT SHALL NOT INCLUDE THE RENEWAL OF A BUSINESS OR PROFESSIONAL LICENSE; PROVIDING THAT VERIFICATION OF LAWFUL PRESENCE SHALL NOT BE REQUIRED FOR THE FOLLOWING: (1) ANY PURPOSE FOR WHICH LAWFUL PRESENCE IN THE UNITED

STATES IS NOT RESTRICTED BY LAW, ORDINANCE, OR REGULATION TO OBTAIN A STATE OR LOCAL PUBLIC BENEFIT OR A FEDERAL PUBLIC BENEFIT THAT IS ADMINISTERED BY A STATE AGENCY OR POLITICAL SUBDIVISION, (2) ASSISTANCE FOR HEALTH CARE ITEMS AND SERVICES THAT ARE NECESSARY FOR THE TREATMENT OF AN EMERGENCY MEDICAL CONDITION OF THE PERSON INVOLVED AND ARE NOT RELATED TO AN ORGAN TRANSPLANT PROCEDURE, (3) SHORT-TERM, NONCASH, IN-KIND EMERGENCY DISASTER RELIEF, (4) PUBLIC HEALTH ASSISTANCE FOR IMMUNIZATIONS WITH RESPECT TO DISEASES AND FOR TESTING AND TREATMENT OF SYMPTOMS OF A COMMUNICABLE DISEASE WHETHER OR NOT THE SYMPTOMS ARE CAUSED BY A COMMUNICABLE DISEASE,

(5) PROGRAMS, SERVICES, OR ASSISTANCE THAT DELIVER IN-KIND SERVICES AT THE COMMUNITY LEVEL, DO NOT CONDITION THE PROVISION OF ASSISTANCE, THE AMOUNT OF ASSISTANCE PROVIDED, OR THE COST OF ASSISTANCE PROVIDED ON THE INCOME OR RESOURCES OF THE INDIVIDUAL RECIPIENT, AND ARE NECESSARY FOR THE PROTECTION OF LIFE OR SAFETY, (6) PRENATAL CARE, OR (7) ENROLLMENT IN A PUBLIC SCHOOL DISTRICT; PROVIDING THAT AN APPLICANT FOR A STATE OR LOCAL PUBLIC BENEFIT OR A FEDERAL PUBLIC BENEFIT THAT IS ADMINISTERED BY A STATE AGENCY OR A POLITICAL SUBDIVISION SHALL EXECUTE AN AFFIDAVIT UNDER PENALTY OF PERJURY THAT HE OR SHE IS A UNITED STATES CITIZEN OR A QUALIFIED ALIEN; PROVIDING THAT ELIGIBILITY OF A PERSON CLAIMING IN AN AFFIDAVIT TO BE A UNITED STATES CITIZEN OR A QUALIFIED ALIEN SHALL BE VERIFIED THROUGH THE SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS PROGRAM; PROVIDING THAT THE AFFIDAVIT SHALL BE PRESUMED TO BE PROOF OF LAWFUL PRESENCE IN THE UNITED STATES AND RECEIPT OF PUBLIC BENEFITS MAY BE AUTHORIZED PENDING THE ELIGIBILITY VERIFICATION; PROVIDING THAT AN AGENCY OR POLITICAL SUBDIVISION THAT OBTAINS AN AFFIDAVIT FROM AN APPLICANT SHALL NOT BE IN VIOLATION OF THE ACT; PROVIDING THAT ANY PERSON WHO KNOWINGLY MAKES A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT IN AN AFFIDAVIT IS SUBJECT TO CRIMINAL PENALTIES FOR FRAUDULENTLY OBTAINING PUBLIC BENEFITS; PROVIDING THAT IF THE AFFIDAVIT CONSTITUTES A FALSE CLAIM OF UNITED STATES CITIZENSHIP OR QUALIFIED ALIEN STATUS, A COMPLAINT SHALL BE FILED BY THE STATE AGENCY OR POLITICAL SUBDIVISION REQUIRING THE AFFIDAVIT WITH UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT; PROVIDING THAT AN INDIVIDUAL WHO IS NOT LAWFULLY PRESENT IN THE UNITED STATES SHALL NOT BE ELIGIBLE ON THE BASIS OF RESIDENCE WITHIN THE STATE FOR ANY POSTSECONDARY EDUCATION BENEFIT, INCLUDING WITHOUT LIMITATION SCHOLARSHIPS OR FINANCIAL AID, AND RESIDENT TUITION; PROVIDING THAT THE INITIAL ISSUANCE OF ANY VEHICLE REGISTRATION OR CERTIFICATE OF TITLE SHALL NOT BE MADE UNLESS THE APPLICANT PRESENTS AT THE TIME OF APPLICATION A VALID ARKANSAS DRIVER'S LICENSE OR AN ARKANSAS IDENTIFICATION CARD; PROVIDING THAT THE PRESENTATION OF A VALID ARKANSAS DRIVER'S LICENSE OR

AN ARKANSAS IDENTIFICATION CARD WHEN APPLYING FOR
VEHICLE REGISTRATION OR A CERTIFICATE OF TITLE IS
SUPPLEMENTAL TO OTHER ARKANSAS LAWS; AND PROVIDING
THAT THE ACT SHALL BECOME EFFECTIVE ON JULY 4, 2009.

Proposed Measure

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS:

SECTION 1. Verification of citizenship when providing certain public benefits.

(a) As used in this section:

(1) "Federal public benefit" means the same as defined in 8 U.S.C. § 1611(c) as it

existed on January 1, 2008;

(2) "Political subdivision" means any county, municipality, township, or other specific local unit of government;

(3) "Qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a state or local public benefit or a federal public benefit administered by a state agency or political subdivision, meets one (1) or more of the criteria established in 8 U.S.C. § 1641(b) as it existed on January 1, 2008;

(4) "State agency" means any office, department, board, commission, bureau, division, public corporation, agency, or instrumentality of this state, including without limitation a public institution of higher education; and

(5)(A) Except as provided in subdivision (a)(5)(B) of this section, "state or local public benefit" means the same as defined in 8 U.S.C. § 1621(c) as it existed on January 1, 2008.

(B)(i) "State or local public benefit" shall include the initial application for any business license granted under the laws of the State of Arkansas, excluding professional licenses.

(ii) A state agency or political subdivision shall not be required to comply with the provisions of Section 1 of this act for a renewal of any business or professional license granted under the laws of the State of Arkansas.

(b) Except as provided in subsection (d) of this section or when exempted by federal law, every state agency or political subdivision shall verify the lawful presence in the United States of any person fourteen (14) years of age or older who has applied for a state or local public benefit or for a federal public benefit that is administered by a state agency or a political subdivision.

(c) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(d) Verification of lawful presence under this section shall not be required for:

(1) Any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation to obtain a state or local public benefit or a federal public benefit that is administered by a state agency or a political subdivision;

(2) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. § 1396b(v)(3) as it existed on January 1, 2008, of the person involved and are not related to an organ transplant procedure;

(3) Short-term, noncash, in-kind emergency disaster relief;

(4) Public health assistance for immunizations with respect to diseases and for testing and treatment of symptoms of a communicable disease whether or not the symptoms are caused by a communicable disease;

(5) Programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelters specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:

(A) Deliver in-kind services at the community level, including through public or private nonprofit agencies;

(B) Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(C) Are necessary for the protection of life or safety; (6) Prenatal care; or

(7) Enrollment in a public school district.

(e)(1) Verification of lawful presence in the United States by the state agency or political subdivision required to make the verification shall require that the applicant execute an affidavit under penalty of perjury that he or she is a:

(A) United States citizen; or

(B) Qualified alien.

(2) The state agency or political subdivision providing the state or local public benefit or federal public benefit that is administered by a state agency or a political subdivision shall provide notary public services at no cost to the applicant.

(f)(1) For any applicant who has executed the affidavit described in subsection (e) of this section and claims to be a United States citizen or a qualified alien, eligibility for benefits shall be made through the Systematic Alien Verification for Entitlements Program operated by the United States Department of

Homeland Security or a successor program designated by the United States Department of Homeland Security.

(2)(A) Until the eligibility verification is made, the affidavit shall be presumed to be proof of lawful presence for the purposes of this section and receipt of public benefits may be authorized pending the eligibility verification.

(B) A state agency or political subdivision which has obtained an affidavit from an applicant shall not be in violation of this section.

(g) Each state agency or political subdivision shall document and maintain the types of benefits and dollar amount of benefits provided to persons who are found to be present in the United States unlawfully.

(h)(1) Any person who knowingly makes a false, fictitious, or fraudulent statement of representation in an affidavit executed under subsection (e) of this section is subject to criminal penalties applicable in this state for fraudulently obtaining public benefits.

(2) If the affidavit constitutes a false claim of United States citizenship under 18 U.S.C. § 911 as it existed on January 1, 2008 or a false claim of qualified alien status, a complaint shall be filed by the state agency or political subdivision requiring the affidavit with United States Immigration and Customs Enforcement.

(i)(1) Each state agency or political subdivision that administers any program of state or local public benefits or federal public benefits shall provide an annual report to the General Assembly concerning compliance with this section, including without limitation the types and dollar amount of benefits provided to persons who are found to be present in the United States unlawfully as documented under subsection (g) of this section.

(2)(A) Each state agency or political subdivision that administers any program of state or local public benefits or federal public benefits shall monitor the Systematic Alien Verification for Entitlements Program for application verification errors and significant delays.

(B) On October 1 of each year, each state agency and political subdivision that administers any program of state or local public benefits or federal public benefits shall provide a report on verification errors and delays, along with any recommendations, to the General Assembly and the United States Department of Homeland Security to ensure that the application of the Systematic Alien Verification for Entitlements Program is not erroneously denying benefits to legal residents of Arkansas.

SECTION 2. An individual who is not lawfully present in the United States shall not be eligible on the basis of residence within the state for:

(1) Any postsecondary education benefit, including without limitation scholarships or financial aid; and

(2) Resident tuition.

SECTION 3. (a) The initial issuance of any vehicle registration or certificate of title shall not be made unless the applicant presents at the time of application a valid Arkansas driver's license or an Arkansas identification card.

(b) Section 3 of this act shall be supplemental to other provisions of Arkansas law concerning vehicle registration and certificates of title.

SECTION 4. This act shall become effective on July 4, 2009.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Office of the Secretary of State on this the 9th day of May, 2008.

Charlie Daniels
Secretary of State
State of Arkansas

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